IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1350 OF 2000

Mrs. Rajni Arun Kumar Gupte
At present residing at
Vile Parle (East), Mumbai ....Applicant.

V/s

The State of Maharashtra ...Respondent.

Mr. Ashwin Shete for the applicant.

Mr. Y.S. Shinde, APP for the State.

CORAM: V.M. KANADE, J.

DATE: 23rd January, 2006

ORAL JUDGMENT:

1. Heard the learned Counsel for the applicant and the learned APP for the State.

2. The applicant is challenging the show-cause notice issued by the Judicial Magistrate, First Class, District Raigad under section 250 of the Criminal Procedure Code. The grievance of the applicant is that her husband was working as Works Manager in the Company at District Raigad and he was provided an accommodation by the Company. Her husband died while he was on duty and she made an application for claiming her husband's dues after his death. However, the said dues were not paid. Accordingly, the

application was filed by her under the provisions of Workmen Compensation Act against the Company, claiming compensation on account of her husband's death. A criminal complaint was also filed against the Officers of the Company. Initially, cognizance was not taken by the Police. Therefore, the complaint was made to the Superior Officers and, finally, C.R. was registered against the Officers of the Company for the offence punishable under section 457, 380 read with section 34 of the Indian Penal Code vide C.R. No.111 of 1992. The Police, However, filed a "B" Summary Report under section 169 of the Criminal Procedure Code. In the meantime, the learned Magistrate issued a show cause notice under section 250 of the Criminal Procedure Code asking the applicant to show cause why action should not be taken against her for making a false complaint. Against the issuance of summons under section 250, the present application has been filed.

3. From the perusal of the correspondence and the statements which are recorded, it appears that after the applicant had filed a petition under the Workmen Compensation Act and after a complaint was filed by her against the Officers of the Company, the Police, without investigating into the matter, filed "B"

Summary Report. It cannot be said, therefore, that the allegation which was made by her in the complaint was false or that she has given false evidence. The order passed by the Magistrate issuing show cause notice, therefore, is patently illegal and there was no occasion for him to issue such a show cause notice.

The show cause notice is, therefore, set aside.

4. Accordingly the application is allowed. Rule is made absolute in the above terms.

V.M. KANADE, J.